

SECOND JUDICIAL DISTRICT COURT ARBITRATION PROGRAM

Suggestions Regarding Self-Representation

The Arbitration Program is intended to serve both parties represented by legal counsel and parties who are self-represented.

The arbitration process remains the same. Attorneys and self-represented parties are both responsible for knowing the applicable law and procedures. They are to perform their own independent legal research, analysis, and preparation.

One resource for attorneys and self-represented parties is the Center for Self Help and Dispute Resolution website: <http://www.nmcourts.gov/seconddistrictcourt/calt2.html> By clicking on “Information,” the user will find a page with Alerts, Information, Forms, and Local Rules. These materials offer an orientation to the Arbitration Program. These materials are not a substitute for performing one’s own independent legal research, analysis, and preparation.

The role of the arbitrator remains the same. The arbitrator is to conduct the arbitration and to make an award. The arbitrator role does not include being a legal advisor or assistant lawyer.

An arbitrator has flexibility. For example, “the arbitrator shall consider the efficient, cost-effective and informal resolution of the case as a factor in all the arbitrator’s decisions and in all aspects of the arbitrator’s management of the case.” See Local Rule 2-603(V)(A)(2).

There are limits to flexibility. For example, “all Supreme Court rules including rules of civil procedure (including Rule 1-006(D) NMRA) and rules of evidence, and all second judicial district local rules, apply during referral to arbitration unless specifically waived by written court order or the arbitrator. The arbitrator may waive rules of evidence only upon agreement of the parties.” See Local Rule 2-603(V)(A)(3).

What does this mean? If arbitration was a baseball game:

- The players (Attorneys and self-represented parties) need to know how to play the game;
- The umpire (Arbitrator) enforces the rules and decides who wins;
- The umpire may make some things more informal. For example, submitting a starting lineup (list of witnesses and exhibits) could be by letter instead of a long formal document; but
- The players will still have to know how to pitch, hit, and field when the game is played – the umpire is not expected to teach them.

There is strong lawyering and less strong lawyering – some by licensed attorneys and some by self-represented parties. The arbitration process will give each an opportunity to be heard. The arbitrator may guide how that happens but, the duty to come prepared rests upon the parties.